

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

WT Docket No. 96-6

In the Matter of)
)
Amendment of the Commission's Rules)
To Permit Flexible Offerings)
in the Commercial Mobile Radio Services)

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COMMENTS OF LDDS WORLDCOM

Worldcom, Inc., d/b/a LDDS WorldCom ("LDDS WorldCom"), hereby files its comments in response to the Notice of Proposed Rulemaking ("Notice"), FCC 95-505, released by the Commission on January 25, 1996, in the above-referenced proceeding. LDDS WorldCom owns and operates one of the four largest long distance networks in the United States. As an interexchange carrier ("IXC") dependent on the local exchange facilities of other providers for the origination and termination of toll traffic, LDDS WorldCom strongly supports the Commission's initiative to increase local competition by authorizing Commercial Mobile Radio Service ("CMRS") providers to offer fixed wireless local loop service. Local competition will be increased even further if the Commission applies the minimal obligations imposed on all local exchange carriers in Section 251(b) of the recently enacted Telecommunications Act of 1996 ("1996 Act"),¹ and any rules or regulations adopted by the Commission to implement that section, to the provision of fixed wireless local loop services by a CMRS providers.

¹ Pub. L. No. 104-104, 110 Stat. 56 (1996)

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**I. LDDS WORLDCOM SUPPORTS AUTHORIZING CMRS PROVIDERS TO OFFER
FIXED WIRELESS LOCAL LOOP SERVICE IN ORDER TO INCREASE LOCAL
EXCHANGE COMPETITION**

The local exchange marketplace is dominated by the incumbent local exchange carriers ("ILECs") who possess a virtually complete monopoly over both local exchange service and exchange access within their service territories.² As a result, ILECs are able to charge IXCs, who must use the access services of the ILECs for the origination and termination of toll calls, access rates that are significantly above cost, thus inflating the long distance rates paid by consumers of telecommunications services. Increased competition in the local exchange marketplace can help bring downward pressure to bear on the access rates of ILECs to the ultimate benefit of the end user.

Increased competition in the local exchange marketplace will be imperative for another reason in the near future. The 1996 Act permits the largest of the ILECs, the Regional Bell Operating Companies ("RBOCs"), to provide interLATA services after meeting certain criteria. The RBOCs are likely to use this new authority to offer combined local and long distance services to their customers. IXCs must be able to respond by augmenting their long distance service offerings with local services. The increased availability of competitive local exchange services

² Notice of Proposed Rulemaking, In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, FCC 95-505, CC Docket No. 95-185, adopted December 15, 1995, released January 11, 1996 (herein after "CMRS Interconnection Notice") at paras. 90, 2, 13.

will help to make local service alternatives available to IXCs and, in turn, to end users.

LDDS WorldCom believes that authorizing "broadband CMRS providers . . . to offer the equivalent of local exchange service using existing allocations for PCS, cellular and SMR,"³ will advance the goal of increasing local competition. In most areas of the country local competition is likely to be slow to develop; in some areas, it may never arrive. The road to the development of local competition will require many regulatory steps by the Commission and numerous technological initiatives by industry. Any step taken by the Commission to promote local competition is a step in the right direction. The provision of fixed wireline local loops by CMRS providers is a small step along that path and one that should be taken.

**II. CMRS PROVISION OF FIXED LOCAL LOOP SERVICES SHOULD BE
SUBJECT TO SECTION 251(b) OF THE 1996 ACT**

**A. LOCAL COMPETITION IS NOT EQUIVALENT TO EXCHANGE ACCESS
COMPETITION**

As it moves down the road toward local competition, the Commission must ensure that the benefits of its actions are widely shared across the marketplace and not limited to a handful of providers. Due to the nature of the local exchange marketplace, it is possible that Commission actions designed with the best of intentions to foster local competition could simply replace one monopoly provider with another.

³ Notice, at para. 9.

In today's local marketplace, characterized by a single monopoly local service provider, IXCs needing access to their customers have little alternative but to deal with the ILECs serving those customers. If a local competitor enters the market, end users may be presented with a choice of local service provider. From the perspective of an unaffiliated IXC, however, the alternatives for accessing a customer have not increased -- even if that customer has chosen the new entrant for local exchange service -- the IXC still has just one avenue to access that customer. It is the customer and not the IXC that selects the local service provider; from the IXC's perspective, the new local service provider possesses a monopoly over the customer just as onerous as the monopoly possessed by the ILEC. Just as was the case with the ILEC, the IXC has no choice but to use the new entrant to serve its customer.⁴

In the future, as the telecommunications market moves toward an environment of full service providers that integrate the provision of local and long distance service, the problem of local service providers having virtual monopoly control over their customers will become more pronounced. Only those carriers

⁴ See CMRS Interconnection Notice at para. 117. See also Joseph Gillan and Peter Rohrbach, "The Potential Impact of Local Competition on Telecommunications Market Structure: Diversity or Reconcentration" (March 1994), attached to "Reply Comments of LDDS WorldCom" in the Second Further Notice of Proposed Rulemaking in CC Docket No. 94-1, Further Notice of Proposed Rulemaking in CC Docket No. 93-124, and Second Further Notice of Proposed Rulemaking in CC Docket No. 93-197, FCC 95-393 (released Sept. 20, 1995) (discusses effect of local competition on interexchange access).

who are capable of providing local exchange services and exchange access together with long distance and other services will be able to compete in this type of market. If only a select few carriers are able to offer local exchange and exchange access services, the number of full service providers available to customers will be severely limited and the marketplace will be prevented from achieving its full competitive potential.

B. SPECIFIC PRO-COMPETITIVE OBLIGATIONS ARE IMPOSED ON LOCAL EXCHANGE CARRIERS BY THE 1996 ACT

To ensure that consumers receive the benefits of the greatest amount of local competition, Congress imposed a number of obligations on local exchange carriers when enacting the 1996 Act. Much attention has been placed on Section 251(c), entitled "Additional Obligations of Incumbent Local Exchange Carriers," which sets out requirements for existing local exchange carriers. Less attention has been given to Section 251(a)⁵ which prescribes duties for all telecommunications carriers or to Section 251(b)⁶

⁵ Sec. 251(a) provides:

"(a) General Duty of Telecommunications Carriers.--Each telecommunications carrier has the duty--

(1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers; and

(2) not to install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to section 255 or 256.

⁶ Sec. 251(b) provides:

"(b) Obligations of All Local Exchange Carriers.--Each local exchange carrier has the following duties:

(1) Resale.--The duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications

(continued...)

which places obligations on all local exchange carriers, including new entrants. Pursuant to these duties, all telecommunications carriers must interconnect with other carriers and all local exchange carriers must make resale of their services available, provide number portability, dialing parity, and access to rights-of-way, and enter into reciprocal compensation arrangements.

Congress imposed these obligations, particularly those contained in Sec. 251(b), because it recognized that local competition would not reach its full potential if only the existing or "incumbent" local exchange carriers were required to open their networks to competition. By requiring new entrants in the local marketplace to interconnect, make resale available, provide number portability, dialing parity, and access to rights-of-way and enter into reciprocal compensation arrangements,

⁶(...continued)
services.

(2) Number portability.--The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

(3) Dialing parity.--The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.

(4) Access to rights-of-way.--The duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with section 224.

(5) Reciprocal compensation.--The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

Congress took the minimum steps necessary to ensure that competition in the local marketplace could flourish. Such a framework envisions multiple participants able to use each others networks as necessary and, thus, not constrained by the huge capital investments that would be necessary to build complete and redundant local networks.

C. PROVISION OF FIXED WIRELESS LOCAL LOOP SERVICES BY CMRS PROVIDERS SHOULD BE TREATED AS A LOCAL EXCHANGE CARRIER SERVICE SUBJECT TO SECTION 251(b) OF THE 1996 ACT

Since Sec. 251(b) of the 1996 Act imposes obligations on "all local exchange carriers," it would seem that the provision of local exchange services, regardless of the technology employed, would subject those services to the obligations of Sec. 251(b). The 1996 Act, however, qualifies the definition of "local exchange carrier" to exclude carriers to the extent they are engaged in the provision of CMRS, unless the Commission finds that such service should be included in the definition of local exchange carrier.⁷

In the Notice, the Commission states that authorizing CMRS providers to offer fixed wireless local loop services will allow "CMRS providers . . . [to] be able to offer the equivalent

⁷ 1996 Act, Sec. 3(a)(2) provides:

"(44) Local Exchange Carrier.--the term 'local exchange carrier' means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service should be included in the definition of such term." [emphasis added]

of local exchange service."⁸ Of course, "the equivalent of local exchange service" is precisely the sort of service that many new entrants intend to offer, regardless of whether they construct new wireline facilities, as competitive access providers ("CAPs") plan, convert existing facilities, as cable companies or electric utilities envision, or resell existing ILEC services as others may attempt. The public policy concerns underlying Congress' subjecting these new entrants to the obligations of Sec. 251(b) are the very same as those regarding the offering of fixed wireless local loop services by CMRS providers. If nothing else, regulatory parity among the new entrants demands that, if the same type of services are being provided, those services should be subject to the same regulatory framework. The Commission should find that, to the extent that a CMRS provider is offering fixed wireless local loop services, the CMRS provider falls within the definition of a local exchange carrier under the 1996 Act and, therefore, its fixed wireless local loop services are subject to the obligations imposed by Sec. 251(b) of the 1996 Act and any rules and regulations adopted by the Commission to implement that section.

To do otherwise will lead to some absurd situations. For example, in the future, the wholly owned cellular affiliate of an IXC may use its authority to offer fixed wireless local loop services to provide exchange access to its parent company, Carrier A. Another IXC, Carrier B, may invest significant

⁸ Notice, at para. 9.

amounts of capital to construct local fiber optic networks in selected cities. If Carrier A wanted to use the services of Carrier B in areas where its cellular affiliate did not provide service, Carrier B would have a statutory obligation to provide Carrier A with the ability to resell Carrier B's services, and to provide number portability, dialing parity, access-to-rights of way and reciprocal compensation arrangements under Sec. 251(b). On the other hand, if Carrier B determined that, in areas where it did not construct a local network, it wanted to use the fixed wireless local loop services of Carrier A's cellular affiliate, neither Carrier A nor its affiliate would be subject to Sec. 251(b) and, thus, would not be required to provide Carrier B anything more than the interconnection required of all telecommunications carriers under Sec. 251(a). These plainly asymmetrical obligations would derive not from any marketplace difference between Carriers A and B, but rather, would occur simply because Carrier A used cellular technology rather than fiber optics to replace the local loop.⁹ Such an outcome is entirely inconsistent with the thrust of the 1996 Act to encourage as much local competition and opening of local networks as possible.

Requiring that CMRS providers, to the extent that they offer fixed wireless local loop services, be subject to the obligations of Sec. 251(b) and the Commission's rules and

⁹ This is not a very remote scenario. Already the chairman of a major IXC has announced that his company plans to use wireless local loop technology to compete in the local market.

regulations thereunder is not the same as requiring that these services be regulated in the identical manner as ILECs. It would simply dictate that the same obligations that run to all local exchange carriers, including new entrants, should apply to CMRS providers offering services that are the "equivalent of local exchange service."

III. CONCLUSION

LDDS WorldCom supports authorizing CMRS providers to offer fixed wireless local loop services as a method of increasing local competition. LDDS WorldCom strongly believes, however, that such services should be subject to the obligations of Sec. 251(b) of the 1996 Act and to any rules and regulations adopted by the Commission to implement that section.

Respectfully submitted,

March 1, 1996



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CERTIFICATE OF SERVICE

I, Cecelia Y. Johnson, hereby certify that on this 1st day of March, 1996, true copies of the foregoing "COMMENTS OF LDDS WORLDCOM" were hand delivered to each of the parties listed below.


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